

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEW JERSEY**

Caption in compliance with D.N.J. LBR 9004-2(c)

Geist Law, LLC

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*Proposed Counsel for Debtor and
Debtor in Possession*

In re:

PALMETTO CONSTRUCTION SERVICES, LLC,
Debtor

Chapter: 11

Case No: 19-21051

Judge: VFP

DEBTOR'S NOTICE OF APPEAL

PLEASE TAKE NOTICE THAT Palmetto Construction Services, LLC ("Palmetto"), by counsel, pursuant to Rule 8003(a)(1) of the Federal Rules of Bankruptcy Procedure, hereby appeals to the United States District Court for the District of New Jersey from the (a) the Order Granting Accolend's Cross Motion, and (b) the Order Converting the Chapter 11 Case into a Chapter 7 Case and states as follows:

1. Palmetto is the Debtor in the above captioned matter.
2. On or about July 7, 2019, Debtor file a "Motion to Impose Automatic Stay" through its attorney Jared A. Geist seeking to extend the automatic stay to its co-debtor and guarantor Nia Mendy (Doc.Rec. No. 24).
3. On or about August 4, 2019, Accolend, LLC, a purported creditor of Debtor, through its attorneys, filed an opposition in the form of a "Cross Motion" not only opposing the Debtor's Motion to extend stay but also seeking to a lift stay and/or dismissal of the Chapter 11 Case (Doc.Rec. No.

37).

4. At a hearing of the Cross Motion the court issued an order granting not only granting the lift stay but also terminating the case and converting into a Chapter 7 Case.
5. Both orders, (Doc.Rec. No. 122 and Doc.Rec. No.123), were entered on October 17, 2019 by this Court.
6. Each of these orders, attached hereto and made part hereof as **Exhibit A** and **Exhibit B**, is a final judgment ripe for appellate review pursuant to 28 USC § 158(a) (1).
7. Further, the conversion of the Chapter 11 Case to a Chapter 7 Case, essentially terminates the Chapter 11 Case, making all issues in this matter ripe for appeal.
8. The completed Official Form 417A is attached hereto as **Exhibit C**.

NOTICE

9. Notice of this pleading has been given to (i) the Office of the United States Trustee for the District of New Jersey; (ii) counsel for the Debtor; (iii) counsel to any Official Unsecured Creditors' Committee appointed in this case, or the twenty (20) largest unsecured creditors of the Debtors, if any Official Unsecured Creditors' Committee has not been appointed; (iv) all counsel of record; (v) the Debtor, (vi) all parties entitled to notice via the court's Electronic Notice System, and (vii) all government agencies to the extent required by the Bankruptcy Rules and the Local Rules, including any parties specifically effected by the relief sought herein. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

NO PRIOR REQUEST

No prior notice of appeal was made in this matter and no prior request for the relief sought in this status report has been made to this or any other court.

WHEREFORE, the Debtor respectfully requests that this Court enter an order, substantially in the form of the Order submitted concurrently herewith, granting the relief requested herein and such other and further relief as this Court deems just and proper.

Dated: October 28, 2019

Respectfully submitted,

GEIST LAW, LLC

By: /s/ Jared Geist.
Jared Geist, Esq.
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*Proposed Counsel for Debtor and
Debtor in Possession*



**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY**

Caption in Compliance with D.N.J. LBR 9004-2(c)

Jeffrey Schreiber, Esq.

NJ Attorney ID: 041751990

Samantha L. Frenchman, Esq.

NJ Attorney ID: 156812015

MEISTER SEELIG & FEIN LLP

2G Auer Court

Williamsburg Commons

East Brunswick, New Jersey 08816

Tel: (732) 432-0073

Attorneys for Creditor Accolend, LLC

Order Filed on October 17, 2019
by Clerk
U.S. Bankruptcy Court
District of New Jersey

In Re:

PALMETTO CONSTRUCTION SERVICES, LLC

Case No. 19-21051

Chapter 11

Honorable Vincent F. Papalia

ORDER VACATING STAY

The relief set forth on the following pages, numbered two (2) and three (3), is hereby
ORDERED.

DATED: October 17, 2019



Honorable Vincent F. Papalia
United States Bankruptcy Judge

Upon consideration of the Cross-Motion to Dismiss the Case or alternatively, under Bankruptcy Code Section 362(d), for relief from the automatic stay as to Accolend, LLC filed by creditor Accolend, LLC (Docket Entry 38), the Statement of the Acting United States Trustee in Support of an Order Dismissing the Case (Docket Entry 110), the Memorandum of Edward Mendy (Docket Entry 80) and the other submissions and filings made by and on behalf of Debtor, the arguments of counsel at the hearing held on October 16, 2019, notice of the Cross-Motion having been given to Debtor, Debtor's counsel and parties in interest, for the Court having found cause for the entry of the within Order, and for the reasons set forth on the record at the hearing held on October 16, 2019, it is hereby

ORDERED that the automatic stay is vacated to permit Accolend, LLC f/k/a Asset Lending and Loans and its successors or assignees to institute or resume and prosecute to conclusion one or more actions to recover any debts owed by the Debtor, including without limitation:

- the foreclosure proceeding commenced on June 19, 2018 in the Morris County Chancery Division of the Superior Court of New Jersey under the caption *GBCap Fund, LP and Accolend, LLC v. Palmetto Construction Services, LLC*, Docket No. F-012840-18;
- the foreclosure proceeding commenced on June 19, 2018 in the Warren County Chancery Division of the Superior Court of New Jersey under the caption *GBCap Fund, LP v. Palmetto Construction Services, LLC*, Docket No. F-012834-18;

- the foreclosure proceeding commenced on June 19, 2018 in the Civil District Court for the Parish of Orleans in the State of Louisiana under the caption *GBCap Fund, LLP v. Palmetto Construction Services, LLC*, Case No. 18-6032;
- the arbitration commenced on June 19, 2018 with the American Arbitration Association captioned *In the Matter of the Arbitration between GBCap Fund, LP and Accolend, LLC v. Palmetto Construction Services, LLC and Nia Mendy*, Case No. 1-18-0002-3789.

It is further ORDERED that Accolend, LLC, or its successors or assignees, may proceed with any other rights and remedies under the terms of the subject mortgages and loan documents and pursue its state court remedies, including without limitation taking the property to sheriff's sale, in addition to potentially pursuing other loss mitigation alternatives, including without limitation a loan modification, short sale or deed-in-lieu of foreclosure. Additionally, any purchaser of the subject properties at sheriff's sale (or purchaser's assignee) may take any legal action for enforcement of its right to possession of the property.

It is further ORDERED that Accolend, LLC, or its successors or assignees, may join the Debtor and any trustee appointed in this case as defendants in its action(s) irrespective of any conversion to any other chapter of the Bankruptcy Code.

Accolend, LLC shall serve this order on the Debtor, the Acting United States Trustee and any other party who entered an appearance on the cross-motion.



Order Filed on October 17, 2019
by Clerk
U.S. Bankruptcy Court
District of New Jersey

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-2(c)
UNITED STATES DEPARTMENT OF JUSTICE
OFFICE OF THE UNITED STATES TRUSTEE
ANDREW R. VARA
ACTING UNITED STATES TRUSTEE, REGION 3
Peter J. D'Auria, Esq. (PD 3709)
One Newark Center, Suite 2100
Newark, NJ 07102
Telephone: (973) 645-3014
Fax: (973) 645-5993

In Re:

Palmetto Construction Services, LLC,

Debtor.

Chapter 11

Case No. 19-21051(VFP)

Hearing Date: Oct. 16, 2019 at 11:00 a.m.

Judge: Vincent F. Papalia

ORDER CONVERTING CASE TO CHAPTER 7

The relief set forth on the following pages, numbered two (2) and three (3), is hereby **ORDERED**.

DATED: October 17, 2019

A handwritten signature in black ink, appearing to read "Vincent F. Papalia".

Honorable Vincent F. Papalia
United States Bankruptcy Judge

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Palmetto Construction Services, LLC
Chapter 11 Case No.: 19-21051(VFP)
Order Converting Case to Chapter 7

Upon consideration of the Cross-Motion to Dismiss the Case filed by Creditor Accolend, LLC (filed at docket entry 38), the Statement of the Acting United States Trustee in Support of an Order Dismissing the Case (filed at docket entry 110), the Memorandum of Edward Mendy (filed at docket entry 80) and the other submissions and filings made by and on behalf of the Debtor, the arguments of counsel at the hearing held on October 16, 2019 (the “Hearing”), the status of the docket and the totality of circumstances of this case, and notice of the Cross Motion having been given to the Debtor, Debtor’s counsel and parties in interest, and the Court having found cause for the entry of the within Order, and the Court having further found that entry of the within Order is in the best interest of creditors and the bankruptcy estate, and for the reasons set forth on the record at the Hearing, it is hereby:

ORDERED that the chapter 11 case of Palmetto Construction Services, LLC, case number 19-21051(VFP), is CONVERTED from chapter 11 to chapter 7; and it is further

ORDERED that within 14 days of the date of this Order the Debtor shall file:

- Amendments to previously filed schedules and statements as necessary,
- All schedules and statements required by 11 U.S.C. § 521(a), if such documents have not already been filed,
- A schedule of all property which was acquired after the commencement of the case, but before the entry of this Order,
- A schedule of executory contracts and unexpired leases entered into or assumed after the commencement of the case, but before the entry of this Order,

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Palmetto Construction Services, LLC
Chapter 11 Case No.: 19-21051(VFP)

Order Converting Case to Chapter 7

- A schedule of unpaid debts incurred after the commencement of the case, but before the entry of this Order, and it is further;

ORDERED that the United States Trustee shall immediately appoint a chapter 7 trustee in this case; and it is further

ORDERED that the Debtor or chapter 11 trustee shall:

- Immediately turn over to the chapter 7 trustee, all records and property of the estate in his/her/its control,
- Within 120 days of the date of this order, file a Final Report including an accounting of all receipts and distributions or a statement indicating why the report cannot be filed.

Official Form 417A (12/18)

*[Caption as in Form 416A, 416B, or 416D, as appropriate]***NOTICE OF APPEAL AND STATEMENT OF ELECTION****Part 1: Identify the appellant(s)**

1. Name(s) of appellant(s): Palmetto Construction Services, LLC

2. Position of appellant(s) in the adversary proceeding or bankruptcy case that is the subject of this appeal:

For appeals in an adversary proceeding.

☐ Plaintiff☐ Defendant☐ Other (describe) _____

For appeals in a bankruptcy case and not in an adversary proceeding.

☒ Debtor☐ Creditor☐ Trustee☐ Other (describe) _____**Part 2: Identify the subject of this appeal**

1. Describe the judgment, order, or decree appealed from: converting to chapter 7 and lifting stay
2. State the date on which the judgment, order, or decree was entered: 10/17/19

Part 3: Identify the other parties to the appeal

List the names of all parties to the judgment, order, or decree appealed from and the names, addresses, and telephone numbers of their attorneys (attach additional pages if necessary):

1. Party: Accolend, LLC Attorney: Jeffrey Schreiber, Esq. 2G Auer Court
Williamsburg Commons
East Brunswick, NJ 08816
P: (732) 432-0322
2. Party: _____ Attorney: _____

Part 4: Optional election to have appeal heard by District Court (applicable only in certain districts)

If a Bankruptcy Appellate Panel is available in this judicial district, the Bankruptcy Appellate Panel will hear this appeal unless, pursuant to 28 U.S.C. § 158(c)(1), a party elects to have the appeal heard by the United States District Court. If an appellant filing this notice wishes to have the appeal heard by the United States District Court, check below. Do not check the box if the appellant wishes the Bankruptcy Appellate Panel to hear the appeal.

- ☐ Appellant(s) elect to have the appeal heard by the United States District Court rather than by the Bankruptcy Appellate Panel.

Part 5: Sign below

_____/s/ JARED A. GEIST, ESQ

Date: 10/29/19 _____

Signature of attorney for appellant(s) (or appellant(s) if not represented by an attorney)

Name, address, and telephone number of attorney (or appellant(s) if not represented by an attorney):

_____/s/ JARED A. GEIST, ESQ
_____/s/ 25 MAIN ST STE 203
_____/s/ HACKENSACK, NJ 07601
_____/s/ 201 870 1488

Fee waiver notice: If appellant is a child support creditor or its representative and appellant has filed the form specified in § 304(g) of the Bankruptcy Reform Act of 1994, no fee is required.

[Note to inmate filers: If you are an inmate filer in an institution and you seek the timing benefit of Fed. R. Bankr. P. 8002(c)(1), complete Director's Form 4170 (Declaration of Inmate Filing) and file that declaration along with the Notice of Appeal.]